

MEMORANDUM

Amended
Agenda Item No. 11(A)(29)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 10, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution dispensing with
conflict resolution
proceedings against the
Village of Pincrest in
accordance with Chapter 164
of Florida Statutes

R-70-08

The accompanying resolution was placed on the agenda by the Board of County Commissioners.



R. A. Cuevas, Jr.
County Attorney

RAC/bw

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Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 11(A)(29)
1-10-08

RESOLUTION NO. R-70-08

RESOLUTION DISPENSING WITH CONFLICT RESOLUTION
PROCEDURES PRIOR TO INITIATING COURT
PROCEEDINGS AGAINST THE VILLAGE OF PINECREST
AND THE VILLAGE OF INDIAN CREEK IN ACCORDANCE
WITH CHAPTER 164 OF FLORIDA STATUTES

WHEREAS, Chapter 18, Article II of the Miami-Dade County Code prohibits any municipality from opting-out of the Miami-Dade County Fire District (“Fire District”); and

WHEREAS, the Village of Pinecrest in violation of the Code, passed Resolution No. 2007-46 directing the Supervisor of Elections to submit to its electors on March 4, 2008 a mail in ballot asking whether the municipality should withdraw from the Fire District and contract with the City of Coral Gables (Attachment A); and

WHEREAS, the Village of Indian Creek, in violation of the Code, passed Resolution No. 628 placing a ballot question on the February 15, 2008 ballot asking whether the municipality should withdraw from the Fire District and contract with the City of Miami Beach; and

WHEREAS, the question approved in Resolution No. 2007-46 violates Section 101.161, Fla. Stat. because it is not a clear and unambiguous statement of what is being put to the electorate; and

WHEREAS, it is illegal for the Village of Pinecrest and the Village of Indian Creek to place such a question before the electorate; and

WHEREAS, the Board of County Commissioners of Miami-Dade County is the governing body of the Fire District and any attempt by Pinecrest to remove itself from the Fire

District constitutes a significant compromise of Miami-Dade County's governance of the Fire District; and

WHEREAS, the timing of the conflict resolution procedures would not permit a judicial decision prior to the date of the requested election and will place in doubt Miami-Dade County's ability to comply with mandated deadlines for preparation of the fire district's 2008-09 budget and completion of TRIM notices pursuant to Sections 200.065 and 200.069, Fla. Stat.,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds that pursuant to Section 164.1041(2), Fla. Stat., an immediate danger to the health, safety or welfare of the public requires immediate action or significant legal rights will be compromised if a court proceeding does not take place before compliance with the provisions of Chapter 164 of the Florida Statutes. Accordingly, this Board, by a three-fourths vote of Commission members now in office, hereby dispenses with the procedures for conflict resolution as authorized by Florida Law prior to initiating civil proceedings against the Village of Pinecrest and the Village of Indian Creek.

The foregoing resolution was offered by Commissioner Carlos A. Gimenez, who moved its adoption. The motion was seconded by Commissioner Jose "Pepe" Diaz and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman	aye		
Barbara J. Jordan, Vice-Chairperson	aye		
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of January, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS



HARVEY RUVIN, CLERK

KAY SULLIVAN

Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

RESOLUTION NO. 628

A RESOLUTION OF INDIAN CREEK VILLAGE, FLORIDA, CALLING A SPECIAL ELECTION TO PRESENT THE VILLAGE'S ELECTORS WITH A BALLOT QUESTION RELATING TO THE CITY OF MIAMI BEACH, FLORIDA, PROVIDING FIRE RESCUE SERVICES IN LIEU OF THE MIAMI-DADE FIRE RESCUE DISTRICT; PROVIDING THAT THE ELECTION SHALL BE HELD ON FEBRUARY 15, 2008; PROVIDING FOR NOTICE; PROVIDING FOR REGISTRATION; PROVIDING FOR CANVASSING BOARD; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 2, 2007, the Village Council adopted Resolution 621 which notified Miami-Dade County of the Village's intent to withdraw from the Miami-Dade Fire Rescue District (MDFRD), pursuant to Article II, Section 18-30 of the Miami-Dade County Code of Ordinances, and to provide fire and rescue services through alternative means;

WHEREAS, the Village Council has determined that the cost to the Village's property owners for fire and rescue services through the MDFRD is well in excess of the cost of obtaining the service from the City of Miami Beach;

WHEREAS, at the time the Village notified Miami-Dade County of its intent to withdraw from the MDFRD, the county's code contained a provision that required that the Village's electors approve of the alternate means of providing fire rescue services;

NOW, THEREFORE, be it resolved by the Indian Creek Village Council that:

1. The Village Council hereby calls a special election for the 15th day of February, 2008, to present to the electors of Indian Creek Village the ballot question provided in Section 3 of the Resolution.

2. The form of the ballot shall be as follows:

**SHALL INDIAN CREEK VILLAGE OPT OUT OF THE
MIAMI-DADE FIRE RESCUE DISTRICT AND CONTRACT WITH
THE CITY OF MIAMI BEACH FOR FIRE RESCUE SERVICES?**

[] YES
[] NO

3. The Village Clerk shall publish notice of said election in accordance with Section 100.342 (Florida Statutes) in a newspaper of general circulation with the Village at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election and the second publication to be in the third week prior to the election and shall be substantially in the following form:

NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE HAS CALLED AND ORDERED THAT A SPECIAL ELECTION BE HELD WITHIN INDIAN CREEK VILLAGE ON FEBRUARY 15, 2008 AT WHICH THE FOLLOWING QUESTION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE VILLAGE:

SHALL INDIAN CREEK VILLAGE OPT OUT OF THE MIAMI-DADE FIRE RESCUE DISTRICT AND CONTRACT WITH THE CITY OF MIAMI BEACH FOR FIRE RESCUE SERVICES?

[] YES
[] NO

4. The special election shall be canvassed by the Miami-Dade County Canvassing Board in accordance with the provisions of general election laws.

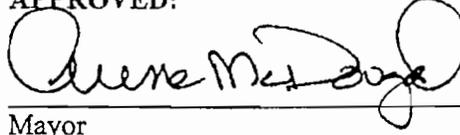
5. A copy of this resolution shall be available for public inspection during regular business hours in the Office of the Village Clerk of Indian Creek Village, located at 9080 Bay Drive, Indian Creek, Florida 33154.

6. The Village Clerk and Miami-Dade County Supervisor of Elections are hereby authorized to take all appropriate actions necessary to carry into effect and accomplish the provisions of this Resolution.

7. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 13th day of December, 2007.

APPROVED:



A handwritten signature in black ink, appearing to read "Aurea M. D'Agostino", written over a horizontal line.

Mayor

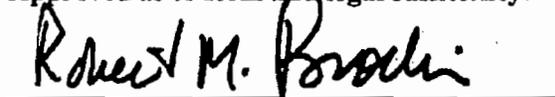
ATTEST:



A handwritten signature in black ink, appearing to read "Pauline A. Deane", written over a horizontal line.

Asst. Village Clerk

Approved as to form and legal sufficiency:



A handwritten signature in black ink, appearing to read "Robert M. Brochi", written over a horizontal line.

Village Attorney